

made in Plaintiffs’ Motion for Partial Summary Judgment on Breach of Contract Claim and memorandum in support (Dkt. 194 and 195). However, Plaintiffs’ Motion for Partial Summary Judgment was filed on April 26, 2017, *nearly two weeks before* oral argument. Moreover, at oral argument, Defendants failed to mention that they had located additional authority that they believe is relevant to class certification, nor did they request leave of Court to make any additional filings in opposition to class certification. At the conclusion of the hearing, the Court asked counsel for each side whether there were any additional matters to raise, and Defense Counsel declined to raise this issue—or any other issue—at that time. *See* Dkt. 202 at pp. 29-30. The Notice is yet another improper “attempt by the Defendants to ‘get the final word’” (Dkt. 199 at p. 3) on the class certification motion, and it should be stricken from the record and given no consideration by the Court.

CONCLUSION

For the reasons set forth herein, Plaintiffs’ motion to strike should be granted and the proposed order entered striking the Notice from the record of this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of May, 2017, a copy of the foregoing was filed electronically. Notice of the filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

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